

PROCEEDINGS OF THE COMMON COUNCIL
IN SPECIAL SESSION
TUESDAY DECEMBER 5, 1995

CITY OF FORT WAYNE, INDIANA
JOURNAL OF THE PROCEEDINGS
OF THE COMMON COUNCIL

THE COMMON COUNCIL OF THE CITY OF FORT WAYNE MET IN THE
COUNCIL CHAMBERS TUESDAY EVENING DECEMBER 5, 1995,
IN SPECIAL SESSION. PRESIDENT DONALD J. SCHMIDT
IN THE CHAIR, COUNCIL ATTORNEY STANLEY A. LEVINE, AND
SANDRA E. KENNEDY CITY CLERK, AT THE DESK, PRESENT THE
FOLLOWING MEMBERS _____ VIZ:

BRADBURY Absent, EDMONDS Present, GIAQUINTA Absent,
HENRY Absent, LONG Present, LUNSEY Present,
RAVINE Present, SCHMIDT Present, TALARICO Present

ABSENT: 3 Council members
COUNCILMEMBER: Bradbury, GiaQuinta,
Henry, _____
THE MINUTES OF THE LAST REGULAR _____, 19____

_____, 19____
SPECIAL DECEMBER 5, 1995,

SESSION HAVING BEEN DELIVERED TO THE COUNCIL, WERE, ON MOTION,
APPROVED AND PUBLISHED.

ROLL CALL

COMMITTEE SESSION

DECEMBER 5, 1995

CITY OF FORT WAYNE, INDIANA

The Common Council of the City of Fort Wayne met in the
Common Council Conference Room 128 Tuesday evening
December 5, 1995, in Committee Session. President
Donald J. Schmidt, in the chair, Council Attorney
Stanley A. Levine, and Sandra E. Kennedy City
Clerk, at the desk, present the following members
viz:

BRADBURY Absent, EDMONDS Present, GIAQUINTA Absent,
HENRY Absent, LONG Present, LUNSEY Present,
RAVINE Present, SCHMIDT Present, TALARICO Present

ABSENT: 3 council members

COUNCIL MEMBER Bradbury, GiaQuinta,
Henry, _____,
_____, _____

CALL, CONSENT AND WAIVER OF NOTICE OF A SPECIAL
MEETING OF THE COMMON COUNCIL OF THE CITY OF
FORT WAYNE, INDIANA TO BE HELD

DECEMBER 5, 1995

WE, THE UNDERSIGNED, BEING ALL OF THE MEMBERS OF THE COMMON
COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, DO HEREBY CALL A SPECIAL
MEETING OF SAID COUNCIL TO BE HELD ON December 5, 1995,
AT 5:30 O'CLOCK P.M., E.S.T., AND JOINTLY AND SEVERALLY
WAIVE NOTICE OF THE TIME, PLACE AND PURPOSE OF SAID MEETING AND CONSENT
THAT SAME BE HELD ON THE AFORESAID DATE FOR THE PURPOSE OF

D. Schmidt

Sam Talarico

Mike Tuss

Mark E. Quinte

Rebecca Carver

David H. Brown

Sharon E. Kennedy

DATED THIS November 21, 1995

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

SEAL



The City of Fort Wayne

Paul Helmke, Mayor

November 15, 1995

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the vacation of dedicated utility easements.

The proposed ordinance is designated as:

Bill No. G-95-05-05

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
15th day of November 1995.

Carol Kettler Sharp
Secretary

/pb

xc: File

FACT SHEET

G-95-05-05

BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE

APPROVAL DEADLINE

REASON

Street Vacation Ordinance

DETAILS

Specific Location and/or Address

The eastern most five (5) feet of Springfield Avenue right-of-way.

Reason for Project

To prevent access of through vehicle traffic to and from the former Mutual Security Life site located directly to the east of the right-of-way to be vacated.

Discussion (Including relationship to other Council actions)

15 May 1995 - Public Hearing

Tom Niezer, attorney for the petitioners as well as the Kirkwood Park Community Association, appeared before the Commission. Mr. Niezer stated that the reason for the vacation request is that the Kirkwood Park Community Association and the two petitioners are seeking to prevent any commercial access from the former Mutual Security Life property onto Springfield Avenue. He stated that this access was never greatly used, if at all, by the former MSL facility. He stated that two years ago when Lowe's was considering developing on the site their development plans did not call for using this particular access point. He stated that the proposed new postal facility on the south side of the MSL property does not intend to use this as an access point. He stated that it is their opinion that vacating this portion of right-of-way will not adversely affect the MSL property, nor will the development of the property be affected. He stated that they are trying to be pro-active. He stated that they have prepared, in draft form, a roadway ease-

POSITIONS

RECOMMENDATIONS

Sponsor

City Plan Commission

Area Affected

City Wide

Other Areas

Applicants/ Proponents

Applicant(s)
Richard L & Lou Ann E
Holderman / Wm H & Muriel
City Department Sterrett

Other

Opponents

Groups or Individuals

Basis of Opposition

Staff Recommendation

☒ For ☐ Against

Reason Against

Board or Commission Recommendation

By

☒ For ☐ Against
☐ No Action Taken

☐ For with revisions to conditions
(See Details column for conditions)

CITY COUNCIL ACTIONS

(For Council
use only)

☐ Pass ☐ Other

☐ Pass (as
amended) ☐ Hold

☐ Council Sub. ☐ Do not pass

DETAILS

ment and maintenance agreement, which would basically provide for a cross easement between the two petitioners. He stated that it also provides for a commitment by the community association to maintain this area. He stated that they are unaware of any utilities requiring easements, but if they do they are willing to grant them as needed. He stated that they have provided formal notice of this requested vacation to the 3000 Coliseum Blvd., Partnership Group last Friday. He stated that they have had a couple of meetings with Barry Sturges, who is a member of the Partnership Group, and he is aware of the petition. He stated that they have had discussions with the Traffic Engineering Department and they have suggested the possibility of requesting the petitioners to agree to the concept, that if, for some reason the former MSL property might be rezoned to single family residential, that they would agree to reopen this portion of street. He stated that they have discussed that in general with Board Members of the Association and the petitioners, and in concept, they have no problem with that request. He stated that they will cooperate with the city, if that request is made by Traffic Engineering. He stated that they may need to ask for a deferral at the Business Meeting (May 22, 1995) in order to modify the agreement to include the Traffic Engineering Department's request.

Dave Ross questioned if this portion of street was currently being used for access.

Mr. Neizer stated that it is not.

POLICY/ PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No	<input type="checkbox"/> Yes
Operational Impact Assessment		

(This space for further discussion)

Franklin Skees, 2620 Springfield Avenue appeared before the Commission in favor of the request. He stated that the intersection, to his knowledge for at least 30 years, has never been open to traffic. He stated that they felt opening that intersection at any time, would create a tremendous traffic flow into their neighborhood.

There was no one else who spoke in favor of or in opposition to the proposed vacation.

22 May 1995 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation, contingent upon the petitioners providing utility easements or relocations as needed, and recording a restrictive covenant that provides for the re-dedication of the vacated right-of-way, at no cost to the city, if the property to the east is developed into future single family residential uses.

Of the seven (7) members present, six (6) voted in favor of the motion, the Chair did not vote. Motion carried.

Members Present: Linda Buskirk, James Hoch, Thomas Quirk, Dave Ross, Carol Kettler Sharp, Mel Smith, Vicky VerPlanck

Members Absent: Ernest Evans, Donald Schmidt

Project Start

Date 4-12-95

Projected Completion or Occupancy

Date 11-15-95

Fact Sheet Prepared by

Date 11-15-95

Patricia Biancaniello

Reviewed by

Date

11-20-95

Reference or Case Number

Richard L. and Lou Ann E. Holderman, and William H. and Muriel Sterrett, request the vacation of five (5) feet of a public right-of-way.

Location: Springfield Avenue at its eastern terminus.

Legal: The E 5' of Springfield Avenue

Land Area: Approximately 250 Sq. Ft.

Zoning: R-1

Surroundings:

North	R-1	Single Family Residential
South	R-1	Single Family Residential
East	B1B	Former Mutual Security site
West	R-1	Single Family Residential

Reason for Request: to prevent access of thru vehicle traffic to and from the former Mutual Security Life site located directly to the east of the right-of-way to be vacated.

Neighborhood Assoc.: Kirkwood Park Community Association

Neighborhood Plan: No comment.

Comprehensive Plan: No comment.

Planning Staff Discussion:

The petitioners are the owners of lots 166 and 167 that directly abut the eastern five feet of the street right-of-way. It is our understanding that they have filed this petition with the knowledge and approval of the neighborhood association, and that they have contacted the current owners of the Mutual Security site.

The stated reason for this petition is to prevent any future access from Springfield Avenue to the former Mutual Security site, which is zoned B-1-B. The B-1-B designation is a "limited business" classification that permits several office and retail uses.

Historically, the city has not encouraged commercial traffic through residential areas. Usually such access would not be approved if an alternate access location was available. Commercial traffic tends to be at a higher volume, and rate of speed, than what is typical of a residential area. Minimum construction standards are higher for a commercial street in order to address the differences in traffic generation.

The petitioners also looked at the possibility of requesting a vacation of Springfield Avenue from it intersection with Glenhurst. Attempting to do so would eliminate a direct public street access for one property owner, and create a potential maintenance problem.

Staff is aware that the area residents have been concerned with possible development potentials for the Mutual Security site for some time. They have objected to future uses that would be more intensive than the previous offices. A clearly identified concern is the potential increases in traffic that may occur on adjoining streets.

Typically residential subdivisions are required to construct "stub streets" to provide access to future residential developments. The area to the east, which is currently zoned B-1-B was rezoned after the original platting of this subdivision, negating the need for the "stub street".

Vacating this five-foot area would have a minimal effect on existing residential development, but would prevent the street from being extended further to the east. It does not appear that vacation would eliminate any existing access to public ways or places, nor would it have a direct impact on property values.

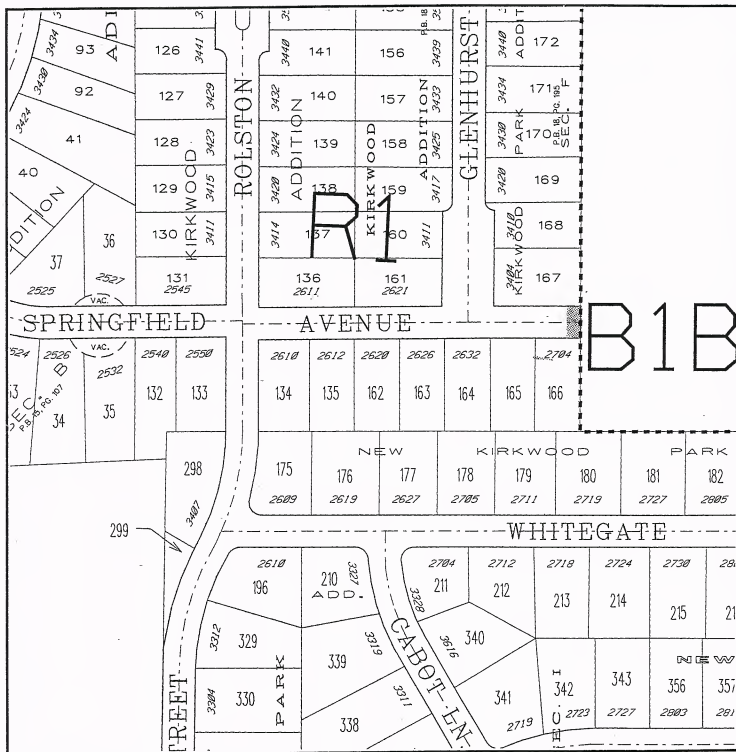
Recommendation: Conditional Approval, contingent upon the petitioners providing utility easements or relocations as needed, and for the following reasons:

- 1) Approval will not prevent anyone from having access to a public street.
- 2) The street does not appear to be necessary for future growth of the city.
- 3) Circumstances in the area have apparently changed since the original platting of this area.

VACATION PETITION

AREA MAP

CASE NO. #581



COUNCILMANIC DISTRICT NO. 2

Map No. Q - 22
LW 4-22-95

R1	One-Family	B1	Limited Business	M1	Light Industrial
R2	Two-Family	B2	Planned Shopping Center	M2	General Industrial
R3	Multi-Family	B3	General Business	M3	Heavy Industrial
RA/RB	Residential	B4	Roadside Business	MHP	Mobile Home Park
PUD	Planned Unit Dev.	POD	Professional Office District		

RESOLUTION 82-97-8

WHEREAS, LOU ANN D. HOLDERMAN, RICHARD L. HOLDERMAN, WILLIAM H. STERRETT, and MURIEL STERRETT have petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following dedicated right-of-way situated in Fort Wayne, Allen County, to-wit:

The eastern most five (5) feet of Springfield Avenue.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-3-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said vacation of dedicated right-of-way has been routed through the following departments: Street Engineering, Traffic Engineering, Water Pollution Control Engineering, Electrical Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne Board of Public Works that the vacation of said dedicated right-of-way hereinbefore described conforms to the general policy and pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana.

BE IT FURTHER RESOLVED by the Board of Public Works that the vacation of said dedicated right-of-way hereinbefore described be and the same is hereby approved subject to easements as required by all public utilities occupying and using said portion of dedicated right-of-way or part thereof for the vacation and operation of its utility facilities shall not be deprived of said use on account of these proceedings unless any said utilities shall file a written consent to said vacation.

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

I, LINDA BUSKIRK, Director of the Board of Public Works, do hereby certify that attached hereto is a full, true and correct copy of a resolution adopted by the Fort Wayne Board of Public Works at their meeting held WED. NOV. 8, 1995 and as same appears of record in the official records of the Board of Public Works.

DATED THIS 8 DAY OF Nov. 1995

FORT WAYNE BOARD OF PUBLIC WORKS

Linda Buskirk
Linda Buskirk
Chairman, Board of Public Works

C. James Owen
C. James Owen
Member, Board of Public Works

Terrance P. McCaffrey
Terrance P. McCaffrey
Member, Board of Public Works

RESOLUTION

WHEREAS, LOU ANN D. HOLDERMAN, RICHARD L. HOLDERMAN, WILLIAM H. STERRETT, and MURIEL STERRETT have petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following dedicated right-of-way situated in Fort Wayne, Allen County, to-wit:

The eastern most five (5) feet of Springfield Avenue.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-3-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said public hearing was held on May 15, 1995 at 7:00 P.M. and at such hearing there were no objections of any kind or character which should prevent the vacation of said dedicated right-of-way.

WHEREAS, said vacation of dedicated right-of-way has been routed through the following departments: Street Engineering, Traffic Engineering, Wafer Engineering, Water Pollution Control Engineering, Street Light Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated right-of-way hereinbefore described conforms to the general policy pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana;

BE IT FURTHER RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated right-of-way hereinbefore described be and the same is hereby approved.

BE IT FURTHER RESOLVED no public utility occupying and using said dedicated right-of-way or part thereof for the vacation and operation of its utility facilities shall be deprived of said use on account of these proceedings unless any said utility shall file a written consent to said vacation.

BE IT FURTHER RESOLVED that the action of the Fort Wayne City Plan Commission be forwarded to the proper governing body having jurisdiction of the vacation of said dedicated right-of-way in Allen County, Indiana.

STATE OF INDIANA)

) SS:

COUNTY OF ALLEN)

I, Carol Kettler Sharp, Secretary of the Fort Wayne City Plan Commission, do hereby certify that attached is a full true and correct copy of a resolution adopted by the Fort Wayne City Plan Commission following a public hearing of said Commission held, May 22, 1995 and as the same appears of record in the official records of said Plan Commission.

DATED THIS 6th DAY OF November 1995

FORT WAYNE CITY PLAN COMMISSION

Carol Kettler Sharp
Carol Kettler Sharp
Secretary



MEMORANDUM

TO: City Council Members

FROM: Gary Stair, *JS* Director of Planning, Community and Economic Development

DATE: November 15, 1995

SUBJECT: Recommendation from Plan Commission

The attached right-of-way vacation and utility easement vacation have been reviewed by the Fort Wayne Plan Commission and forwarded to you for final action. The Plan Commission's recommendation on each case, made after public hearing and review, has been certified by the Commission's Secretary and is summarized on the attached "Fact Sheet".

Occasionally, there will be a significant delay between the time the petition is filed and when the Plan Commission certifies its recommendation and forwards the case to you. This delay occurs when a petition receives "Conditional Approval" -- approval subject to the petitioner fulfilling certain obligations. In such cases the Plan Commission's staff holds the petition until all conditions have been met by the petitioner. Once all conditions have been satisfied, the case is forwarded to you.

As always, if you have any questions concerning the attached cases, please do not hesitate to call me or Pat Fahey of the Land Use Management staff at 427-1140.

/pb

Vacation Petition - Bill No. G-95-05-05

Amendment: Street Vacation Ordinance

Location: The eastern most five (5) feet of Springfield Avenue.

Applicant: Lou Ann & Richard L Holderman

Proponents: Tom Niezer, attorney representing petitioners

Opponents: None

Summary of Discussion: This petition would prevent access of through traffic to and from the former Mutual Security Life site located directly to the east of the right-of-way to be vacated.

Staff Recommendation: Do Pass

Plan Commission Recommendation: Do Pass

Recommendation Given: May 22, 1995

Committee Session Date: The Committee Session date will depend upon the publication of the legal notice by Council staff.

Vacation Petition - Bill No. G-95-10-05

Amendment: Utility Easement Vacation Ordinance

Location: Easements are located within the Tamera Gardens development.

Applicant: Gene Keller & Sons Inc.

Proponents: Tim Ochs, attorney representing petitioner

Opponents: None

Summary of Discussion: This vacation would clear up a potential problem with development of the Tamera Gardens project.

Staff Recommendation: Do Pass

Plan Commission Recommendation: Do Pass

Recommendation Given: October 23, 1995

Committee Session Date: The Committee Session date will depend upon the publication of the legal notice by Council staff.



The City of Fort Wayne

Paul Helmke, Mayor

November 15, 1995

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the vacation of dedicated utility easements.

The proposed ordinance is designated as:

Bill No. G-95-10-05

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
15th day of November 1995.

A handwritten signature in cursive script that reads "Carol Kettler Sharp".

Carol Kettler Sharp
Secretary

/pb

xc: File

FACT SHEET

G-95-10-05

BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE

APPROVAL DEADLINE

REASON

Utility Easement Vacation Ordinance

DETAILS

Specific Location and/or Address
Easements are located within the Tamera Gardens development.

Reason for Project

To clear up a potential problem with development of the Tamera Gardens project.

Discussion (Including relationship to other Council actions)

16 October 1995 - Public Hearing

Tim Ochs, attorney for the petitioner, appeared before the Commission. Mr. Ochs stated that to understand the request a brief history of the project was necessary. In 1987 the petitioners vacated the portion of the plat that was to be redeveloped into Tamera Gardens. That vacation only extended to the lot lines and the street. The final plant for Tamera Gardens was approved in 1992. So far the project has not actually started construction. In final preparation for the start of construction it was discovered that certain internal utility easements had not been vacated. Some of the proposed buildings will be developed over, or will encroach into these easements. He stated that the only property owner abutting these easements is the petitioner, who owns all of the ground previously contained within Lot 7 through 17 in Tamera Place and that part of Home Gardens Addition that abuts the site. He stated that the petitioner is willing to grant easements as required by the engineering departments. He stated that they have also contacted the private utilities and they have "orally" indicated that they

POSITIONS

RECOMMENDATIONS

Sponsor	City Plan Commission
Area Affected	City Wide Other Areas
Applicants/ Proponents	Applicant(s) Gene Keller & Sons, Inc. City Department Other
Opponents	Groups or Individuals Basis of Opposition
Staff Recommendation	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against Reason Against
Board or Commission Recommendation	By <input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

DETAILS

have no problem with the vacation.

There was no one else present who spoke in favor of or in opposition to the proposed vacation.

23 October 1995 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation, contingent upon the petitioner providing utility easements or relocations as needed.

Of the nine (9) members present, eight (8) voted in favor of the motion, the Chair did not vote. Motion carried.

Members Present: Linda Buskirk, Ernest Evans, James Hoch, Thomas Quirk, Dave Ross, Donald Schmidt, Carol Kettler Sharp, Mel Smith, Vicky VerPlanck

POLICY/PROGRAM IMPACT

Policy or
Program
Change

☐

No

☐

Yes

Operational
Impact
Assessment

(This space for further discussion)

Project Start

Date 18 September 1995

Projected Completion or Occupancy

Date 15 November 1995

Fact Sheet Prepared by

Date 15 November 1995

Patricia Biancaniello

Reviewed by

Date

20 November 1995

Reference or Case Number

Steve Gabet, agent for Gene Keller & Sons, Inc., request the vacation of utility easements in the vacated plat of Tamera Place.

Location:	Easements are located within the Tamera Gardens development.
Legal:	See file
Land Area:	Approximately 0.20 acres
Zoning:	RB
Surroundings:	The immediate area is zoned RB. All easements are located within the Tamera Gardens development plan that was approved by the Plan Commission in 1992.
Reason for Request:	Clear up a potential problem with development of the Tamera Gardens project.
Neighborhood Assoc.:	South Suburban Civic Association

Planning Staff Discussion:

This ground was original part of the plat of Tamera Place, a residential subdivision. In 1987 the petitioners vacated the portion of the plat that was to be redeveloped into Tamera Gardens. That vacation only extended to the lot lines and the street. After resolving various site plan issues, the final development plan was approved by the Plan Commission in 1992.

Due to a number of circumstances the project has not actually started construction. In final preparation for the start of construction it was discovered that certain internal utility easements had not been vacated. Some of the proposed buildings will be developed over, or will encroach these easements.

The only property owner abutting these easements is the petitioner, who owns all of the ground previous contained within lots 7-17 of Tamera Place and that part of Home Gardens Addition that abuts the site.

It should be noted that the vacation does not include the perimeter easements that may be needed for utility service to this site or to surrounding properties.

Approval will allow final development of the site, and eliminate any concerns regarding the easements.

As part of the usual review procedure, all of the utilities have been contacted regarding the vacation. None of the "in-house" utilities have any objection to the vacation, however WPC

Engineering will need new easements for the development. The petitioner is aware of this and has been working with the department to provide the needed easements.

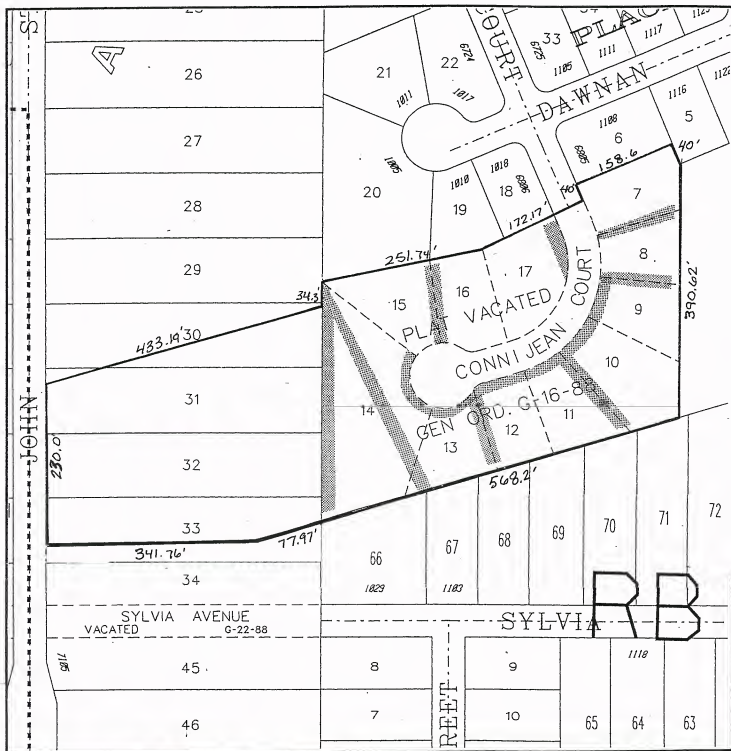
RECOMMENDATION: Conditional Approval, contingent upon the petitioner providing utility easements or relocations as needed, and for the following reasons:

- 1) Conditions in the area have changed since the easements were originally platted to serve lots in a subdivision that has since been vacated.
- 2) The vacation will not impact anyone other than the petitioner.
- 3) The easements are not necessary to future development and/or growth.

VACATION PETITION

AREA MAP

CASE NO. #598



COUNCILMANIC DISTRICT NO. 3

Map No. O - 27
LW 9-22-95

R1	One-Family	B1	Limited Business	M1	Light Industrial
R2	Two-Family	B2	Planned Shopping Center	M2	General Industrial
R3	Multi-Family	B3	General Business	M3	Heavy Industrial
RA/RB	Residential	B4	Roadside Business	MHP	Mobile Home Park
PUD	Planned Unit Dev.	POD	Professional Office District		

RESOLUTION 82-97-9

WHEREAS, GENE KELLER & SONS, INC., has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following dedicated utility easements situated in Fort Wayne, Allen County, to-wit:

The vacation of eight (8) easements in the plat of Tamera Place, recorded in plat book 42, pages 9-12, and vacated in general ordinance G-16-88:

1. The 14-foot wide utility easement between Lots #7 and #8, except the Easterly 14 feet thereof;
2. The 6-foot wide street light easement between Lots #8 and #9, except the Easterly 14 feet thereof;
3. The 6-foot wide street light easement between Lots #10 and #11, except the Southerly 15 feet thereof;
4. The 6-foot wide street light easement between Lots #12 and #13, except the Southerly 15 feet thereof;
5. The utility easement between Lots #15 and #16, except the Northerly 7 feet thereof;
6. The 15-foot wide sewer easement along the Easterly line of Lot #17, except the Northerly 7 feet thereof;
7. The 15-foot sewer easement along the frontage of Lots #9, #10, #11, #12, #13, and #14;
8. The 14-foot wide utility easement along the West line of Lot #14, except the Southerly 15 feet and except the Northerly 35 feet thereof;

Also the vacation of the 15-foot wide storm drain easement as recorded in Document #93-27169, except the Southerly 15 feet, thereof and except the Northerly 35 feet thereof.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-3-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said vacation of dedicated utility easements has been routed through the following departments: Street Engineering, Traffic Engineering, Water Pollution Control Engineering, Electrical Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne Board of Public Works that the vacation of said dedicated utility easements hereinbefore described conforms to the general policy and pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana.

BE IT FURTHER RESOLVED by the Board of Public Works that the vacation of said dedicated utility easements hereinbefore described be and the same is hereby approved subject to easements as required by all public utilities occupying and using said portion of dedicated utility easements or part thereof for the vacation and operation of its utility facilities shall not be deprived of said use on account of these proceedings unless any said utilities shall file a written consent to said vacation.

STATE OF INDIANA)

) SS:

COUNTY OF ALLEN)

I, LINDA BUSKIRK Director of the Board of Public Works, do hereby certify that attached hereto is a full, true and correct copy of a resolution

adopted by the Fort Wayne Board of Public Works at their meeting held
WED. NOV 8 1995 and as same appears of record in the
official records of the Board of Public Works.

DATED THIS 8 DAY OF Nov., 1995

FORT WAYNE BOARD OF PUBLIC WORKS

Linda Buskirk
Linda Buskirk
Chairman, Board of Public Works

C. James Owen
C. James Owen
Member, Board of Public Works

Terrance P. McCaffrey
Terrance P. McCaffrey
Member, Board of Public Works

RESOLUTION

WHEREAS, GENE KELLER & SONS, INC., has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following dedicated utility easements situated in Fort Wayne, Allen County, to-wit:

The vacation of eight (8) easements in the plat of Tamera Place, recorded in plat book 42, pages 9-12, and vacated in general ordinance G-16-88:

1. The 14-foot wide utility easement between Lots #7 and #8, except the Easterly 14 feet thereof;
2. The 6-foot wide street light easement between Lots #8 and #9, except the Easterly 14 feet thereof;
3. The 6-foot wide street light easement between Lots #10 and #11, except the Southerly 15 feet thereof;
4. The 6-foot wide street light easement between Lots #12 and #13, except the Southerly 15 feet thereof;
5. The utility easement between Lots #15 and #16, except the Northerly 7 feet thereof;
6. The 15-foot wide sewer easement along the Easterly line of Lot #17, except the Northerly 7 feet thereof;
7. The 15-foot sewer easement along the frontage of Lots #9, #10, #11, #12, #13, and #14;
8. The 14-foot wide utility easement along the West line of Lot #14, except the Southerly 15 feet and except the Northerly 35 feet thereof;

Also the vacation of the 15-foot wide storm drain easement as recorded in Document #93-27169, except the Southerly 15 feet, thereof and except the Northerly 35 feet thereof.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-3-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said public hearing was held on October 16, 1995 at 7:00 P.M. and at such hearing there were no objections of any kind or character which should prevent the vacation of said dedicated utility easements.

WHEREAS, said vacation of dedicated utility easements has been routed through the following departments: Street Engineering, Traffic Engineering, Water Engineering, Water Pollution Control Engineering, Street Light Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated utility easements hereinbefore described conforms to the general policy pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana;

BE IT FURTHER RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated utility easements hereinbefore described be and the same is hereby approved.

BE IT FURTHER RESOLVED no public utility occupying and using said dedicated utility easements or part thereof for the vacation and operation of its utility facilities shall be deprived of said use on account of these proceedings unless any said utility shall file a written consent to said vacation.

BE IT FURTHER RESOLVED that the action of the Fort Wayne City Plan Commission be forwarded to the proper governing body having jurisdiction of the vacation of said dedicated utility easements in Allen County, Indiana.

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

I, Carol Kettler Sharp, Secretary of the Fort Wayne City Plan Commission, do hereby certify that attached is a full true and correct copy of a resolution adopted by the Fort Wayne City Plan Commission following a public hearing of said Commission held, 23 October 1995 and as the same appears of record in the official records of said Plan Commission.

DATED THIS 15 DAY OF November, 1995

FORT WAYNE CITY PLAN COMMISSION



Carol Kettler Sharp
Secretary

THE COUNCIL THEN ADJOURNED

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of Fort Wayne, Indiana, and as such the custodian of the records of the Common Council of said City and that the above and foregoing is the true, full and complete record of the proceedings the Common Council of the City of Fort Wayne, Indiana, for its SPECIAL Session, held on 5th day of DECEMBER, 1995, that the numbered ordinances and resolutions shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor and on the dates shown as to each such ordinance and resolution respectively; and that all such records, proceedings, ordinances and resolutions remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this _____ day of _____, 19____.

Sandra E. Kennedy
City Clerk